

NPDES STATE PROGRAM AUTHORIZATION BRIEFING PAPER



New Mexico Environment
Department

What is the NPDES Program?

- ⇒ The federal **N**ational **P**ollutant **D**ischarge **E**limination **S**ystem (NPDES) permit program is created by the federal Clean Water Act to control water pollution. Water pollution control is achieved by regulating point sources that discharge pollutants into Waters of the United States.
- ⇒ Point sources are discrete conveyances such as pipes or man-made ditches. Individual homes that are connected to a municipal system, use a septic system, or do not have a surface discharge to a Water of the United States do not need an NPDES permit; however, industrial, municipal, and other facilities must obtain permits if they discharge into Waters of the United States.
- ⇒ In most cases, the NPDES permit program is administered by [authorized states](#). Since its introduction in 1972, the NPDES permit program has been responsible for significant improvements to the Nation's and our State's water quality.

What does it mean to be "Authorized"?

- ⇒ The federal Clean Water Act states that it is the policy of Congress that the States implement the NPDES permit program.
- ⇒ Once a State is "authorized" it administers its own permitting / pollutant discharge control program in lieu of the federally administered NPDES permit program.

What is the federal Environmental Protection Agency's role when a State is authorized?

- ⇒ A State program may only be authorized if the State's program is equivalent to or more stringent than the federal program.
- ⇒ EPA's role changes from directly administering the NPDES permit program to overseeing the State's administration of the program. EPA's oversight is to assure the State's program is administered consistent with the requirements of the federal Clean Water Act

How does NM compare to other States, Territories, and Tribes Nationally and Regionally?

- ⇒ Nationally:
 - 45 of 50 States are authorized (New Mexico, Alaska, Massachusetts, New Hampshire and Idaho are not authorized)
- ⇒ Regionally:
 - 4 of the 5 EPA Region 6 States are authorized
 - EPA Region 6 includes New Mexico, Texas, Oklahoma, Arkansas and Louisiana
 - 5 of the 5 States that border New Mexico are authorized (Colorado, Oklahoma, Texas, Arizona, and Utah)
 - At this time, none of the 66 Tribes within EPA Region 6 are authorized to operate the NPDES program. However, the Navajo Nation (in EPA Region 9) is currently working toward authorization.

How do NPDES permits improve water quality?

- ⇒ NPDES permits generally specify an acceptable level of a pollutant in a discharge (for example, a certain level of bacteria). The permittee may choose which technologies to use to achieve that level.
- ⇒ Some permits contain requirements for 'best management practices' (such as installing a screen over the pipe to keep debris out of the waterway).
- ⇒ NPDES permits make sure that a State's mandatory standards for clean water are being met.

Who will be affected by NPDES program authorization?

- ⇒ Approximately 120 individual NPDES permits have been issued or are pending issuance by the federal Environmental Protection Agency (EPA) to facilities in New Mexico. The list of facilities with individual permits is available at <http://www.nmenv.state.nm.us/swqb/psrlist.html>.
- ⇒ Approximately 2,500 facilities operate under general NPDES permits issued by EPA. Three general permits have been issued in New Mexico; the Concentrated Animal Feeding Operations permit (provides coverage for Concentrated Animal Feeding Operations or CAFOs such as large dairies), the Storm Water Multi-Sector Industrial General Permit or MSGP (covers non-construction related industrial activities), and the Storm Water Construction Permit.

If the State is authorized to administer the NPDES permit program, does that mean permittees will need to obtain both a State and a Federal permit to discharge to a surface water?

- ⇒ No, in most cases the new State issued permit will replace the need to obtain a federal NPDES permit.

If the State is authorized to run the NPDES permit program, what will happen to current permittees? Will current permittees be required to submit new applications?

- ⇒ NMED anticipates that most current permittees will automatically be transferred over to the New Mexico program with minimal effort. Permittees would then be notified to apply to the State instead of the EPA as their permits expire on their existing schedule. Exceptions may exist for facilities that are currently involved in an enforcement action under EPA authority. In those cases the permits would likely be transferred to State authority once the enforcement action is complete.

What are the benefits of NPDES program authorization for New Mexico?

- ⇒ New Mexico will be able to take charge of the quality of its water resources. This is especially critical in light of recent U.S. Supreme Court and federal government decisions that could limit the protections afforded to surface water in New Mexico.
- ⇒ New Mexico can tailor its NPDES program to meet State specific needs, while still meeting the broader requirements of the federal Clean Water Act.
- ⇒ Ultimately, NMED plans to merge the State's separate ground water and surface water quality protection permitting programs so that only one permit will be required in New Mexico. This reduces the administrative burden imposed on the regulated community by separate, and sometimes redundant, permitting programs.

What are the projected costs of NPDES program authorization?

- ⇒ NMED estimates that it would cost the State more than \$1,000,000 annually to run a successful NPDES program.
- ⇒ Based on this estimate, NMED anticipates that it must generate more than \$550,000 in additional funding each year (in addition to current federal grant dollars).

How will the State fund the program? Will there be additional federal money available to support the program?

- ⇒ Long-term funding sources for the program have yet to be determined. Additional federal monies are not expected to run the program.
- ⇒ NMED anticipates that a permit fee structure will need to be implemented. There is currently no fee for federally issued NPDES permits. The current State Water Quality Act does allow for permitting fees and fees are currently assessed for State Ground Water Discharge Permits.

What is the timeline for completing the program authorization process?

- ⇒ NMED is working toward having a completed program authorization package by the end of 2006. In order to meet this deadline, NMED must:
 - ➔ Propose and gain approval for statute changes that are necessary for program authorization during the 2005 legislative session
 - ➔ Develop implementation regulations by the end of 2005